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IN THE

Supreme Court of the United States

OCTOBER TERM, 1958

No. 461

RUTH PAGE FISHER and THOMAS HART FISHER,
Petitioners,

vs.

PRINTING DEVELOPMENTS, INC., a corporation,
Respondent.

PETITION FOR REHEARING OF PETITION FOR WRIT OF CERTIORARI, AND ACCOMPANYING MOTION FOR ISSUANCE OF WRIT OF CERTIORARI AND PEREMPTORY JUDGMENT OF REVERSAL WITHOUT ORAL ARGUMENT.

HORACE A. YOUNG,
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Attorneys for Petitioners.

UNITED STATES LAW PRINTING CO. CHICAGO 18, ILL., LA KEVIEW 5 6581

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Now come Ruth Page Fisher and Thomas Hart Fisher, Petitioners, by their attorneys, Horace A. Young and Norman Crawford, and petition the Court for a rehearing of their prior petition for writ of certiorari, and also move the Court for the issuance of a writ of certiorari and peremptory judgment of reversal without oral argument, upon the grounds set forth in their accompanying motion.

And in support of such petition and motion, the undersigned counsel for Petitioners hereby certify that such petition and motion are presented in good faith and not for delay, and that such petition and motion are restricted to substantial grounds not previously presented.

It is respectfully prayed that this Court grant the foregoing petition and motion.

Respectfully submitted,

HORACE A. YOUNG
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Attorneys for Petitioners
135 South La Salle Street
Chicago 3, Illinois

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Respondent.

MOTION FOR ISSUANCE OF WRIT OF CERTIORARI AND PEREMPTORY JUDGMENT OF REVERSAL WITHOUT ORAL ARGUMENT.

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MOTION FOR ISSUANCE OF WRIT OF CERTIORARI AND PEREMPTORY JUDGMENT OF REVERSAL WITHOUT ORAL ARGUMENT.

Now come Ruth Page Fisher and Thomas Hart Fisher, Petitioners, by their attorneys, Horace A. Young and Norman Crawford, and move the Court for the issuance of the writ of certiorari and peremptory judgment of reversal without oral argument; and in support thereof Petitioners respectfully show unto the Court as follows:

(1) This petition for writ of certiorari is sought to reverse a judgment of an Illinois state court, which judgment is utterly void for want of any jurisdiction in the trial court over the person of Petitioner, Ruth Page Fisher.

The Illinois Appellate Court on direct appeal itself correctly found that the trial court had never obtained any personal jurisdiction over such Petitioner. Nevertheless the trial court entered a void judgment for possession of real estate and for money costs against such Petitioner. The Illinois Appellate Court affirmed the void judgment *solely* upon the ground that such void judgment was rendered valid merely because such Petitioner had exercised an unquestioned right under Illinois law to appeal from such void judgment.

(2) There can be no doubt on the merits of the petition that such Petitioner has been deprived of due process of law thereby. This Court many times has held that the entry of a judgment in a State Court against a defendant which is utterly void for want of jurisdiction over the person of such defendant is a denial of due process of law under the 14th Amendment.

(3) Respondent's Brief does not present any issue on the merits. There is no basis for Respondent's contention that Petitioner, Ruth Page Fisher, did not raise the constitutional question at the earliest fair opportunity. Such Petitioner could not have raised it in the trial court. The constitutional question was first created when the Illinois Appellate Court's decision became final by denial of Petitioners' Petition for Rehearing. Petitioners raised the constitutional question in the Illinois Supreme Court which was their first fair opportunity.

(4) Respondent's contention that Petitioner should not have appealed from the void judgment within the five days granted by Illinois law, but instead was required to move in the trial court to vacate the void judgment within 30 days and thereby lose the right of appeal, is contrary to the precise holding on this identical point by this Court in *American Surety Company* v. *Baldwin*, 287 U.S. 156.

(5) No oral argument is required to demonstrate that the void judgment of the Illinois State Court should be reversed peremptorily. In such cases, this Court may properly grant the writ of certiorari as prayed and may dispose of the case by a *per curiam* opinion without oral argument.

Respectfully submitted,

HORACE A. YOUNG
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Attorneys for Petitioners